

Yurkiv R. Development of legislation of Ukraine on compulsory licenses for inventions (useful models)

The article is devoted to theoretical positions about the formation and development of the institute of compulsory licenses for an invention (utility model). The analysis of legislation on the regulation of these relations was done. The theoretical positions on the subject of research are analyzed. It was established that the national legislation on compulsory licenses began to be formed in 1992, but its most significant development occurred in 2000-2003, when several types of compulsory licenses were imposed in the law, which have been applied to the present time.

Compulsory licensing is conditioned either by public needs or by the groundless refusal of the right holder to authorize such use of a particular object of industrial property rights. After Ukraine gained independence in 1991 the formation of national legislation in the field of intellectual property began. In 1992 the Presidential Decree approved the Provisional Regulations on the Legal Protection of Industrial Property Objects and Innovative Proposals in Ukraine, which contained a minor legal regulation of the investigated relations. In the Law of Ukraine "On Protection of Rights to Inventions and Utility Models" in the wording of 15.12.1993, too, there were not many legal norms on compulsory licensing. In particular, Art. 24 of the Law ("Forced alienation of rights") contained norms that determined only one case of obtaining a license for the use of the invention in a compulsory manner.

In 2000, the Law of Ukraine "On the Protection of Rights to Inventions and Utility Models" was set forth in a new version, and the legal regulation of compulsory licensing was substantially improved, as unlike the version of the 1993 law, the grounds for issuing compulsory licenses were expanded.

The Law of Ukraine No. 850-IV of May 22, 2003 introduced radical changes to the compulsory licensing of inventions, utility models taking into account public interests. So, if before 2003 the Government could issue such compulsory licenses based on the interests of the society and subject to military and emergency state without specifying these interests, in the 2003 one was changed the grounds and conditions for such licensing.

As of today, the only area with special legal regulation regarding compulsory licensing of patent law objects is the sphere of health protection.

Key words: intellectual property, license, invention, utility model, use, government.